

TERRITORY OF PAPUA AND NEW GUINEA.

*National Parks and Gardens Ordinance 1966.*

No. 70 of 1966.

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PRICE 15c.

TERRITORY OF PAPUA AND NEW GUINEA.



No. 70 of 1966.

**AN ORDINANCE**

**To Provide for the Development, Control and Management of certain Reserves.**

[Reserved 11th July, 1966.]

[Governor-General's assent notified 5th January, 1967.]

**BE** it ordained by the House of Assembly for the Territory of Papua and New Guinea, in pursuance of the powers conferred by the *Papua and New Guinea Act 1949-1964*, as follows :—

1. This Ordinance may be cited as the *National Parks and Gardens Ordinance 1966*. Short title.
2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*. Commencement.
3. In this Ordinance, unless the contrary intention appears— Definitions.
  - “member” means a member of the Board, and includes the Chairman and the Deputy Chairman;
  - “reserve” means land committed to the care, control and management of the Board under Section 12, or accepted by the Board under Section 13, of this Ordinance;
  - “the Board” means the National Parks and Gardens Board established by this Ordinance;
  - “the Chairman” means Chairman of the Board.
  - “the Deputy Chairman” means the Deputy Chairman of the Board;
  - “the Regulations” means the regulations made under this Ordinance;
  - “this Ordinance” includes the Regulations.
4. For the purposes of this Ordinance there shall be a National Parks and Gardens Board. Establishment of Board.
5. (1) The Board is a body corporate with perpetual succession and a common seal, and may acquire, hold and dispose of real and personal property and is capable of suing and being sued in its corporate name. Incorporation of Board.

(2) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Board affixed to a document and shall presume that it was duly affixed.

Constitution  
of the  
Board.

6. (1) The Board shall consist of five members appointed by the Administrator by notice in the *Gazette*.

(2) The Administrator shall appoint one of the members of the Board to be the Chairman of the Board and one other member to be the Deputy Chairman of the Board.

(3) Subject to this Ordinance, a member of the Board—

(a) holds office for a period of three years from the date of his appointment by the Administrator; and

(b) may, by notice in writing to the Administrator, resign from office as a member of the Board.

(4) Subject to this Ordinance, the Chairman and the Deputy Chairman—

(a) hold office as Chairman and Deputy Chairman, respectively, for a period of three years from the date of their respective appointments by the Administrator; and

(b) may, by notice in writing to the Administrator, resign from office as Chairman or Deputy Chairman, as the case may be.

(5) A Deputy Chairman who is appointed to be Chairman ceases to be Deputy Chairman immediately before the date of his appointment as Chairman.

(6) In the event of a member, or the Chairman or Deputy Chairman, ceasing to hold office before the end of his period of appointment, another member, Chairman or Deputy Chairman, as the case requires, may be appointed in his place for the remainder of that period.

Calling of  
meetings.

7. (1) Subject to the next succeeding subsection, the Board shall meet at such times and places as the Chairman or, during a vacancy in the office of Chairman or when the Chairman is absent from the Territory or unable by reason of illness or incapacity to perform his duties, the Deputy Chairman, considers necessary for the efficient conduct of its affairs, but so that the period between any two successive meetings does not exceed six months.

(2) The Chairman or, when the Chairman is absent from the Territory or unable by reason of illness or incapacity to perform his duties, the Deputy Chairman shall, within seven days of the receipt of a written request signed by not less than two members, call a meeting of the Board.

(3) A meeting of the Board shall be deemed not to have been duly called unless—

(a) at least seven days' notice of the meeting has been given to each member either by telegram or in writing served personally or by post; or

- (b) at least three members, of whom one is the Chairman or the Deputy Chairman, consent to a lesser period of notice of the meeting.

**8.** (1) At a meeting of the Board—

Procedure at meetings.

- (a) three members, of whom one is the Chairman or the Deputy Chairman, are a quorum ;
- (b) the Chairman or, in his absence, the Deputy Chairman, shall preside ;
- (c) all questions shall be decided by a majority of votes of the members present ; and
- (d) the Chairman or, in his absence, the Deputy Chairman has a deliberative vote, and in the event of an equality of votes, also a casting vote.

(2) The Board shall keep a record of its proceedings.

**9.** (1) A member of the Board who is a party to, or is directly or indirectly interested in, a contract made or proposed to be made by or on behalf of the Board, otherwise than as a member, and in common with other members, of an incorporated company consisting of not less than twenty-five persons, shall disclose that he is such a party, or the nature of his interest, at the first meeting of the Board at which he is present after the relevant facts have come to his knowledge.

Interest to be disclosed.

(2) A disclosure under Subsection (1) of this section shall be recorded in the minutes of the Board and, after that disclosure, the member—

- (a) shall not take part in any deliberation or decision of the Board in relation to that contract ; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Board for any such deliberation.

**10.** A member of the Board shall be deemed to have vacated his office—

Vacation of office.

- (a) if he becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his salary or fees for their benefit ;
- (b) if he is absent, except on leave granted by the Board, from three consecutive meetings of the Board ;
- (c) if the member, or the spouse or a child of the member, becomes the holder of, or acquires, a beneficial interest in a lease of, or licence in respect of, land included in a reserve ;
- (d) if the member, or the spouse or a child of the member, becomes a director of a company which is a holder of, or has a beneficial interest in, a lease of, or licence in respect of, land included in a reserve ; or
- (e) if the member is of unsound mind.

Certain persons not eligible for membership of Board.

**11. A person—**

- (a) who is the holder of, or has a beneficial interest in, a lease of, or licence in respect of, land included in a reserve;
- (b) whose spouse or child is the holder of, or has a beneficial interest in, such a lease or licence;
- (c) who is a director of a company which is the holder of, or has a beneficial interest in, such a lease or licence; or
- (d) whose spouse or child is such a director,

is not eligible to be appointed a member of the Board.

Placing of reserved land under control of Board.

**12. (1)** The Administrator may, by notice in the *Gazette*, commit to the care, control and management of the Board land which has been reserved or is deemed to have been reserved under Section 27 of the *Land Ordinance 1962-1965* for a place for the recreation or amusement of the public, a national park, a monument, a botanical garden, a zoological garden, a reserve or sanctuary for the protection of flora or fauna or for any similar purpose.

(2) Subject to this section, the Board may grant a lease of land so committed to its care, control and management.

(3) A lease so granted shall be for a period not exceeding fifty years, but may be renewed.

Power of Board to accept and control bequests and gifts.

**13. (1)** Subject to the approval of the Administrator, the Board may accept a gift, devise or bequest of any property, whether real or personal.

(2) Subject to this section and to any conditions attached to the gift, devise or bequest by which the Board obtains title to any property accepted by the Board under the last preceding subsection, the Board may—

- (a) sell any property so accepted if the property is not required for the purposes of this Ordinance and apply or invest the proceeds of the sale for the purposes of this Ordinance; or
- (b) grant a lease of land comprised in property so accepted.

(3) A lease so granted shall be for a period not exceeding fifty years, but may be renewed.

Property given, etc., to Board not subject to succession duty.

**14.** No succession duty is payable upon any property given, devised or bequeathed to the Board.

Functions of the Board.

**15.** Subject to this Ordinance, the functions of the Board are—

- (a) in the case of land committed to its care, control and management under Section 12 of this Ordinance, to control, manage and develop the land in accordance with the purposes for which the land has been reserved;

- (b) in the case of property comprised in or converted from a gift, devise or bequest accepted by the Board under Section 13 of this Ordinance, to control, manage and develop the property in accordance with any conditions attached to the gift, devise or bequest, or, if there are no conditions so attached, as the Board thinks fit for the purposes of this Ordinance; and
- (c) subject to the last preceding paragraph, in the case of land specified in paragraph (a) of this subsection or included in property specified in the last preceding paragraph, to encourage and promote the public use and enjoyment of the land.

**16.** (1) Subject to this Ordinance, the Board has such powers as are necessary or convenient for, or incidental to, the performance of its functions. Powers of the Board.

(2) Without limiting the generality of the powers of the Board under the last preceding subsection, the Board may, in the performance of its functions—

- (a) preserve and protect natural features of interest or beauty;
- (b) fence in or otherwise enclose, clear, level, drain, plant, and form walks and drives through and over, reserves or parts of reserves;
- (c) construct dams and reservoirs for the retention and formation of expanses of water on reserves;
- (d) establish and maintain zoological gardens on reserves;
- (e) introduce to, or remove from, reserves any flora or fauna;
- (f) permit and assist zoological and botanical research on reserves;
- (g) construct banks, drains or other works, and do all other acts and things, necessary to prevent soil erosion and damage by fire on reserves;
- (h) with the approval of the Administrator, construct, maintain and manage, or authorize persons to construct, maintain or manage, camps, caravan parks, kiosks, refreshment rooms, hostels, hotels, places of entertainment and facilities for games or amusements on reserves for the use of the public and of youth groups approved by the Board;
- (i) with the approval of the Administrator, grant a licence or other right to use and occupy—
  - (i) a camp, caravan park, kiosk, hostel, hotel or place of entertainment; or
  - (ii) refreshment rooms or facilities for amusement, on a reserve or on land accepted by the Board under Section 13 of this Ordinance;
- (j) demand and receive rents, fees or charges for a licence or right granted under the last preceding paragraph; and

(k) do any other thing calculated to improve or ornament reserves, or to adapt reserves to the purposes of public recreation, health or enjoyment.

(3) The last preceding subsection does not authorize the Board to do, or permit to be done, an act or thing in relation to a reserve that is inconsistent with the purpose for which the land included in the reserve has been reserved.

Delegation of powers.

**17.** (1) The Board may by writing under its seal delegate to a person all or any of its powers and functions under this Ordinance (except this power of delegation), so that the delegated powers and functions may be exercised by the delegate with respect to the matters or class of matters, or to the whole Territory or the part of the Territory, specified in the instrument of delegation.

(2) A delegation under this section is revocable at will and no delegation prevents the exercise of a power or function by the Board.

Board may recommend that land be reserved for certain reasons and subject to certain conditions may inspect such land.

**18.** (1) The Board may make a recommendation to the Administrator that land specified in the recommendation be reserved under Section 27 of the *Land Ordinance 1962-1965* for a place for the recreation and amusement of the public, a national park, a monument, a botanical garden, a zoological garden, a reserve or sanctuary for the protection of flora or fauna or for any similar purpose.

(2) Subject to this section, a member may, with such assistants as he thinks necessary—

(a) enter upon any land in respect of which he thinks that the Board should give consideration to the making of a recommendation under the last preceding subsection; and

(b) if the land is fenced, open a fence in order to enter upon the land,

for the purpose of making such inspections, investigations and inquiries on the land as he thinks appropriate for obtaining information relevant to consideration by the Board.

(3) The member shall ensure that, when he leaves the vicinity of the place of entry, any fence opened under the last preceding subsection is closed and, if broken in the entry, adequately repaired.

(4) A member is liable for any damage he commits or causes to be committed in the exercise of the powers conferred by Subsection (2) of this section.

(5) A member shall not exercise, in respect of land which is occupied, the powers conferred by Subsection (2) of this section except after giving reasonable notice, orally or by letter or telegram, to the occupier of the land upon which he proposes to enter.

(6) The letter or telegram shall be addressed to the occupier at his usual or last known place of address and shall indicate the land upon which it is proposed to enter, the position of the proposed

place of entry and the time of the proposed entry, but the right of entry given by this section is not affected by reason only of the fact that entry is made at a place or time not indicated in the letter or telegram.

(7) A member shall not enter upon the land or open a fence on the land until after the day on which he gave oral notice or on which, the letter or telegram would ordinarily be received by the occupier as the case may be.

(8) A person shall not obstruct a member, or an assistant to whom Subsection (2) of this section applies, in the exercise of a power conferred on the member by that subsection.

Penalty: Ten dollars.

(9) This section does not apply to or in relation to land the entry upon which is prohibited by a law of the Commonwealth or so prohibited except in accordance with such a law.

**19.** (1) Subject to this section, the Board may appoint such officers and temporary or casual employees as are necessary to assist it in the exercise of its powers and the performance of its functions under this Ordinance. Employment of persons by the Board.

(2) The terms and conditions of employment (including remuneration) of officers and temporary or casual employees shall be as determined by the Minister after receiving reports from the Board and the Public Service Commissioner.

(3) For the purposes of Section 109 of the *Public Service (Papua and New Guinea) Ordinance 1963-1965* service as an officer appointed under this section shall be deemed to be service in an office provided under an Ordinance of the Territory other than that Ordinance.

**20.** (1) The funds of the Board shall consist of— Funds of the Board.

- (a) such sums of money as are appropriated by the House of Assembly from time to time for the purposes of the Board;
- (b) such sums of money as are loaned to the Board under the next two succeeding sections; and
- (c) such other sums of money as are received, whether by gift or otherwise, by the Board in the course of the exercise or performance of its powers and functions under this Ordinance.

(2) The sums referred to in paragraph (a) of Subsection (1) of this section shall be paid to the Board in such amounts and at such times as the Administrator determines.

**21.** (1) The Board may accept an offer by the Treasurer to lend moneys for the purposes of the Board on such terms as are agreed upon (including provision for the payment of interest) between the Board and the Treasurer. Loans by Treasurer.



(2) The Board shall repay the loan in accordance with the terms under which it is made.

Private  
borrowing.

**22.** Subject to this Ordinance, the Board may borrow money at or without interest by way of mortgage, bank overdraft or otherwise for—

- (a) the purposes of the Board under this Ordinance;
- (b) the repayment or partial repayment of a sum previously borrowed,

within such limits and upon such conditions as the Administrator approves.

Financial  
operations.

**23.** (1) The Board shall open and maintain an account or accounts with a bank or banks and shall pay all moneys received by it into one of those accounts and may, subject to this section, operate on that account as the Board sees fit.

(2) The moneys of the Board shall be applied only in the discharge of the Board's functions under this Ordinance.

(3) Moneys of the Board not immediately required may be invested—

- (a) in any securities of, or guaranteed by the Commonwealth, the Administration or a Territory of or under the authority of the Commonwealth;
- (b) on fixed deposit or on call with a bank; or
- (c) in such other manner as the Minister, with the concurrence of the Treasurer of the Commonwealth approves.

By-laws.

**24.** The Board may make By-laws, not inconsistent with this Ordinance or a law in force in the Territory or a part of the Territory, for the control and management of reserves and, in particular, providing for or in relation to—

- (a) the times at which reserves shall be open and closed;
- (b) the conduct of persons when on reserves;
- (c) the days on which, and the limits within which, sports and games, or training for sports and games, may be permitted on reserves and otherwise regulating or prohibiting sports and games, or training for sports and games, on reserves;
- (d) the prevention or the regulation of the admission of vehicles, horses, dogs, asses, mules, goats, camels, sheep and cattle to reserves, and for their destruction if trespassing on reserves;
- (e) the prevention or the regulation of shooting over or on reserves;
- (f) the prevention or the regulation of the trapping of birds or animals on reserves;
- (g) the prevention or the regulation of the destruction or removal of the eggs of birds on or from reserves;

- (h) the control of fishing within reserves ;
- (i) the impounding or confiscation within reserves of firearms, traps, nets, snares, lines, hooks, lures, poisons, baits, enticements, cages and other articles capable of being used, in contravention of the By-laws, for luring, holding, taking or destroying animals, birds, reptiles or fish ;
- (j) the prevention or the regulation of racing, or training for racing, with horses or dogs on reserves ;
- (k) the prohibition or the regulation of the sale or exposal for sale of goods, wares or merchandise on reserves ;
- (l) the prevention of damage or injury to, or destruction of, trees, shrubs, plants and flowers on reserves ;
- (m) the prevention of damage or injury to, or destruction or defacement of, buildings, structures or erections or natural features on reserves ;
- (n) the prevention of nuisances on reserves and of the fouling of water on reserves ;
- (o) the charging of fees by the Board, and for regulating the charging of fees by other persons, for admission to reserves, or any part of a reserve ;
- (p) the authorization of persons to demand the names and places of abode of persons who are believed on reasonable grounds to have contravened or failed to comply with a By-law, and requiring persons to comply with such a demand made by a person so authorized ;
- (q) the removal from reserves of persons who are believed on reasonable grounds to have contravened or failed to comply with a By-law ; and
- (r) the imposition of penalties, not exceeding One hundred dollars, for the contravention of, or failure to comply with, a By-law.

**25.** A By-law made under this Ordinance has no force or effect until— Approval of By-laws.

- (a) approved by the Administrator in Council ; and
- (b) published in the *Gazette*.

**26.** Where a person is convicted of an offence against this Ordinance, the Court before which the person is convicted may, in addition to imposing a penalty, order the person to pay the amount of any damage, or the cost of restoring, removing or repairing any damage, done by him in committing the offence, and the amount so ordered to be paid shall be recoverable as if it were part of the penalty so imposed, notwithstanding that the total amount of the penalty and damage, or the cost of restoring, removing, or repairing any damage, exceeds the maximum penalty which may be imposed under this Ordinance. Offender may be ordered to pay for damage he does.

**27.** The Board shall keep proper accounts and records of the transactions and business of the Board and shall do all things necessary to ensure that all payments out of the moneys of the Board are Accounts.

correctly made and properly authorized and that adequate control is maintained over the assets of the Board and the incurring of liabilities by the Board.

**Audt.**

**28.** (1) The Auditor-General for the Commonwealth shall inspect and audit the accounts and records of the financial transactions and of property, including trust moneys and property, of the Board and shall forthwith draw the Administrator's attention to any irregularity revealed by the inspection and audit which, in the opinion of the Auditor-General, is of sufficient importance to justify his so doing.

(2) The Auditor-General shall, at least once in each year, report to the Administrator the results of the inspection and audit carried out under the last preceding subsection.

(3) The Auditor-General or a person authorized by him is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of the Board relating directly or indirectly to the receipt or payment of moneys by the Board or to the acquisition, receipt, custody or disposal of assets of the Board.

(4) The Auditor-General or a person authorized by him may make copies of or take extracts from any such accounts, records, documents or papers.

(5) The Auditor-General or a person authorized by him may require any officer, member of the staff or employee of the Board to furnish him with such information in the possession of the officer, member or employee, or to which the officer, member or employee has access, as the Auditor-General or authorized person considers necessary for the purposes of an inspection or audit under this section.

(6) A person shall not hinder or obstruct the Auditor-General or a person authorized by him in the exercise and performance of his duties and functions under this section, or refuse or fail to furnish information lawfully required of him under the last preceding subsection.

Penalty for an offence against this subsection: Two hundred dollars.

**Reports, etc.**

**29.** (1) The Board shall—

- (a) not later than the thirty-first day in March of each year, submit to the Administrator particulars of proposed expenditure by the Board in the financial year next ensuing; and
- (b) within three months after the expiration of each financial year, prepare and forward to the Administrator for laying before the House of Assembly a report and financial statements in a form approved by the Administrator in respect of its activities during that financial year.

(2) Before forwarding the financial statements referred to in paragraph (b) of Subsection (1) of this section, the Board shall

submit those statements to the Auditor-General for the Commonwealth who shall thereupon report to the Administrator—

- (a) whether the statements are based upon proper accounts and records;
- (b) whether the statements are in agreement with those accounts and records and show fairly the financial operations and state of affairs of the Board;
- (c) whether the receipt, expenditure and investment of moneys and the acquisition and disposal of assets by the Board has been in accordance with this Ordinance; and
- (d) as to such other matters arising out of those statements as he considers should be reported to the Administrator.

(3) A copy of the report provided in accordance with the last preceding subsection shall be laid before the House of Assembly.

**30.** Notwithstanding anything contained in any other law of the Territory, a lease of, or licence in respect of, land included in a reserve or other land accepted, or otherwise acquired, and held by the Board under this Ordinance, shall not be granted under any such other law, unless the Board, after such inquiry as it thinks fit, recommends that the lease or licence be granted.

Lease or licence not to be granted for land unless recommended.

**31.** The purposes of the Board are a public purpose within the meaning of any law in force in the Territory or a part of the Territory.

Purposes of Board to be public purpose.

**32.** Nothing in this Ordinance shall be construed so as to effect the operation of—

Operation of other Ordinances.

- (a) the *National Cultural Property (Preservation) Ordinance 1965*; or
- (b) the *Fauna Protection Ordinance 1966*.

**33.** The Administrator in Council may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for the carrying out or giving effect to this Ordinance.

Regulations.